

DAY KNIGHT & ASSOCIATES

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August 30, 2005

Office of the Secretary

ATT: OCBO

Federal Communications Commission

445 12th Street, S.W.

Washington, DC 20554

RE: Request for comment regarding possible revision or elimination of rules under the Regulatory Flexibility Act DA-05-1524

My name is Denise Day, and I am the President of Day Knight & Associates located in Wildwood, Missouri. I am the owner of a small business, and a representative for many businesses (which are the bread and butter for many American families) that has been substantially harmed as a result of the Federal Communications Commission's regulatory decision under the Telephone Consumer Protection Act ("TCPA") that small businesses, such as mine, cannot use predictive dialers to call wireless numbers when attempting to recover delinquent payments for goods or services received by consumers.

I am aware that ACA International ("ACA") has filed a written comment with the Commission regarding this issue in response to the Commission's request for comments on the possible revision or elimination of rules under the Regulatory Flexibility Act, 5 U.S.C. § 610 ("RFA"), in proceeding DA-05-1524. See FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act, DA-05-1524 (May 31, 2005). I fully support

ACA's comment and the relief the Association seeks, including ACA's characterization of the harm visited upon small businesses as a result of the Commission's rule.

Our company has been growing and we are considering the implementation of a dialer to assist in and accommodate the management of recovering on past due accounts resulting from established business transactions that have not been paid by debtors. The purpose for our calls are to hold individuals and companies accountable with regards to a preexisting business relationship entered into. Quite often debtors are very aware of these loop holes. We do not telemarket. The Commission should not permit its regulations to be used as a shield to encourage the non-payment of debts. Doing so harms small businesses, the economy, as well as consumers.

As it stands today, my company faces serious financial hardship due to the Commission's regulatory reversal that creditors and debt collectors cannot use predictive dialers to call a wireless number to attempt to recover outstanding payment obligations. The Commission's rule requires small companies, at great cost, to fundamentally alter our business models to reduce or remove our reliance on predictive dialers. It also needlessly subjects us to federal enforcement and private litigation risk, even though Congress never intended such an outcome.

For these reasons, I encourage the Commission to promptly clarify that autodialer calls to wireless numbers to attempt to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

Denise Day

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